

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of EL'DRIANNA MYQUEEN
SYKES, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KEYIATTA MIREE,

Respondent-Appellant.

In the Matter of JEREMIAH DEON MIREE,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KEYIATTA MIREE,

Respondent-Appellant,

and

JAMES OWEN,

Respondent.

UNPUBLISHED
January 6, 2009

No. 286121
Saginaw Circuit Court
Family Division
LC No. 06-030709-NA

No. 286122
Saginaw Circuit Court
Family Division
LC No. 06-030393-NA

Before: Zahra, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

In these consolidated appeals, respondent appeals as of right from the trial court orders terminating her parental rights to Jeremiah pursuant to MCL 712A.19b(3)(c)(i) and (j) and to El'Drianna pursuant to MCL 712A.19b(3)(j). We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(E).

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). If a statutory ground for termination is established, the trial court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *Trejo, supra* at 355-357; *Sours, supra* at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller, supra* at 337.

The trial court did not err when it terminated respondent-mother's parental rights to Jeremiah under MCL 712A.19b(3)(c)(i) because the conditions that led to the adjudication continued to exist at the time of the permanent custody hearing. When Jeremiah's case first came before the court in April 2006 respondent had admitted to using marijuana, and was mentally unstable. Respondent refused to take medication prescribed by her psychiatrist and had been involved in domestic violence incidents with her mother in the presence of her children. Respondent was diagnosed with bi-polar disorder in 2002 and admitted that her inability to control her emotions had gotten her into some violent situations. Respondent also acknowledged that she was still dealing her inability to control her behavior, which was the same issue she had been dealing with since the beginning of the case.

Respondent's emotional instability and propensity toward criminality were evident throughout the case as she continued to engage in violent acts including repeatedly attacking her children's fathers with a knife, eggs, and carpet cleaner. Respondent also stabbed her own brother. Despite being coached on techniques and skills to enhance her emotional relationships over the past three years, respondent continued to involve herself in situations where she could not control herself. She vacillated between acknowledging responsibility and failing to recognize that her behavior was at the root of her not being able to have her children. The dangerous situations to which respondent would expose the children jeopardized their emotional, mental and physical development.

Over the past three years, efforts had been made to teach respondent to control her emotions but those efforts were unsuccessful, in part, because she did not participate fully in the programs. Respondent was referred to dialect behavior therapy but did not complete the course. She was also referred to a psychotherapist at CMH who worked with anger management and only met with him two times out of eight possible sessions. Given respondent's three-year

history with services and lack of progress, it is doubtful that she would be able to acquire the necessary skills to keep her children safe or maintain coping skills necessary to control her emotions.

In addition to not benefiting from services, respondent's approach to her mental health treatment likely contributed to her continuing instability. Respondent missed two medication reviews in May 2008 and, rather than consulting with her psychiatrist, she took herself off her medication when she found out that she was pregnant again. Respondent admitted that within days of stopping her medication, she assaulted the father of one of her children. Respondent also never demonstrated that she was drug free. Respondent admitted using marijuana on April 6, 2006. She did not consistently or reliably submit requested drug screens. Respondent tested positive for marijuana on January 10, 2008, and failed to submit drug screens in February 2008.

Respondent argues that the court erred in using MCL 712A.19b(3)(c)(i) as a basis to terminate her parental rights because that statutory subsection is not listed under MCR 3.977(F)(1)(b)(ii). However, this court rule only applies where a supplemental permanent custody petition has been filed on the basis of one or more circumstances new or different from the offense that led the court to take jurisdiction, which is not the case here. Under MCL 712A.19b(3)(c)(i), the court terminated parental rights because the conditions that led to Jeremiah's adjudication continued to exist, not because new conditions or circumstances had arisen.

Termination of respondent's parental rights to Jeremiah and El'Drianna was also proper under MCL 712A.19b(3)(j). Respondent failed to fully follow through with mental health treatment even though her mental instability caused her to continued to engage in violent, criminal behavior that exposed the children to threat of harm. Because of this instability respondent repeatedly involved herself in situations of domestic violence where she was unable to control her emotions and actions. As recently as April 2008, respondent violated a PPO and went to jail overnight for throwing eggs at the father of one of her children. This was only one of many instances where respondent acted violently and aggressively. She stabbed her brother in August 2007. In October 2007, she was involved in three assaultive acts against her children's fathers. Respondent's minimization of her dangerous and violent behavior demonstrates her lack of insight and the risk of harm she poses to her children. She is unable to recognize the impropriety and danger of her behavior or the impact it has on them.

Lastly, respondent argues that termination of her parental rights was not contrary to the children's best interests. The court did not err in its best interest decision. The court made an affirmative finding that termination of parental rights was in the children's best interest because respondent lacked attachment to Jeremiah. She had no connection to the children's activities, which was evident by her lack of participation in their play during visits.

Also, Jeremiah and El'Drianna have special needs that make it even more important for them to have an attentive caregiver who is mentally and emotionally stable. El'Drianna has been diagnosed with mild cerebral palsy and Jeremiah has been exhibiting symptoms of bi-polar disorder. The children need stability and consistent care, which respondent cannot provide them. There is no evidence on the record that termination of respondent's parental rights was clearly

contrary to the children's best interests. To the contrary, their best interests were served by a speedy resolution to the case so they could have permanence and stability.

Affirmed.

/s/ Brian K. Zahra

/s/ Peter D. O'Connell

/s/ Karen M. Fort Hood